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Joint Legislative Audit and Review Committee (JLARC)

INTERIM LEGISLATIVE AUDITOR

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SENATORS

Brad Benson
 Jeanne Kohl-Welles
 Bob Oke
 Linda Evans Parlette, *Vice Chair*
 Debbie Regala
 Phil Rockefeller, *Asst. Secretary*
 Pat Thibaudeau
 Joseph Zarelli

REPRESENTATIVES

Gary Alexander, *Secretary*
 Glenn Anderson
 Kathy Haigh
 Janéa Holmquist
 Ross Hunter, *Chair*
 Fred Jarrett
 Kelli Linville
 Deb Wallace

June 22, 2005

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JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REGULAR COMMITTEE MEETING MINUTES

COMMITTEE BUSINESS

- Senator Debbie Regala, JLARC Chair, called the meeting to order at 9:45 a.m. in Salons 1 and 2 of the SeaTac Marriott Hotel in SeaTac, Washington.
- Senator Regala welcomed Representative Hans Dunshee to the meeting.
- Ann Daley, Interim Legislative Auditor, updated the Committee on the recruitment that is currently in progress for a new Legislative Auditor. Dennis Karras, a former Director of the Department of Personnel, is heading the recruitment. It is anticipated that a new Legislative Auditor will be selected by late July or early August.
- Ms. Daley announced that staff members Eric Thomas and Heather Moss have accepted other employment and will be leaving JLARC. She then introduced new staff member, Fara Daun, to the Committee and announced that John Bowden will also be joining our staff.
- Representative Ross Hunter moved to approve the minutes from the May 18, 2005, JLARC meeting. Motion was seconded and carried unanimously.
- Ms. Daley provided a brief overview of JLARC's 2005-07 Work Plan. The Committee is including three JLARC-sponsored studies in this work plan (performance audit of the Department of Health, study of K-12 technology funding, and a review of DSHS services coordination and access). Ms. Daley noted that the Committee and staff may need to revisit the earlier proposed scope of the DSHS study. Representative Hunter remarked on the tight schedule and due dates. Ms. Daley acknowledged this, adding that the Committee has been able to hire seasoned staff who can hit the ground running. Senator Thibaudeau remarked on the Committee's new flexibility to adjust study due dates, as provided in the 2005 Operating Budget. Representative Alexander confirmed that the dates listed in the work plan are dates for final reports. Representative Alexander moved to adopt the 2005-07 JLARC Work Plan. Motion was seconded and carried unanimously.
- Senator Regala announced that JLARC is canceling its August meeting due to member commitments for the upcoming National Conference of State Legislatures' (NCSL) meetings.
- Senator Regala welcomed the return of Senator Phil Rockefeller to JLARC. Senator Rockefeller replaces departing member Senator Darlene Fairley.
- In accordance with its statute and bylaws, the Committee elected new officers for the 2005-07 Biennium. Representative Kathy Haigh nominated Representative Ross Hunter as JLARC Chair, who was elected unanimously. Senator Regala turned over the gavel to Representative Hunter, who then chaired the remainder of the meeting. Representative Gary Alexander nominated Senator Linda Evans Parlette as JLARC Vice Chair, who was elected unanimously. Representative Janéa Holmquist nominated Representative Gary Alexander as JLARC Secretary, who was elected unanimously. Senator Debbie Regala nominated Senator Phil Rockefeller as JLARC Assistant Secretary, who was elected unanimously.

REPORTS, PRESENTATIONS, DISCUSSIONS

HIGHER EDUCATION CAPITAL FACILITIES STUDIES: EXPANDING THE COMPARABLE FRAMEWORK — PROPOSED FINAL REPORT

Karen Barrett with the JLARC staff briefed the Committee on the proposed final report on JLARC's exploration of the feasibility of expanding the higher education facilities comparable framework. She reminded the Committee that this study looks into the possibilities of (1) adding *time* as a dimension to the original framework for building preservation; (2) including information on building modernization on a comparable basis; and (3) adding information on campus infrastructure to the framework. The report recommends that the Legislature place the comparable framework model within an organization to be maintained, or choose not to sustain it past the 2005 effort to refresh building preservation information. The report's second recommendation is to the Office of Financial Management (OFM) to make recommendations on information being assembled from agencies about their facility preservation and stewardship. In its response to the study recommendations, the Higher Education Coordinating Board (HECB) has indicated its willingness to become the home for the comparable framework.

Senator Kohl-Welles asked if HECB would have a role in shaping the suggestions and recommendations coming from OFM. Ms. Barrett was not sure on the two agencies' plans to coordinate on this specific response, but noted that the two have a long history of working together. Representative Alexander suggested directing that question to Mike Roberts, Senior Budget Assistant on capital budget for OFM, who was in the audience. Mr. Roberts indicated that OFM and HECB working together on this topic was unavoidable; he also noted the close connection the two will have on a related assignment to prioritize higher education capital requests. With regard to the recommendation on if/where to maintain the comparable framework, Mr. Roberts indicated that OFM views this as a legislative decision.

Representative Alexander asked if HECB was the appropriate place to house the framework, given that OFM is another alternative. Mr. Roberts could see arguments on both sides. Representative Haigh commented that OFM had not seemed anxious during the legislative session to house the new Capital Review Board. It might be useful for this role to be with an agency outside of OFM.

Representative Dunshee inquired further about the report's look at including comparable information on modernization proposals, since many future funding requests will be for modernization. Ms. Barrett pointed out the lessons learned from adding the time dimension to building preservation information. The report illustrates the feasibility of creating a depiction of life-cycle costs for one or a set of buildings; this can show the timing on expected future preservation needs, which can then help with decisions on the timing of modernization requests. Having a better understanding on projected future preservation expenditures can inform those modernization decisions. Representative Dunshee indicated that the line between preservation and modernization requests can be rather murky. Ms. Barrett agreed, adding that legislators are likely to see requests that are blends of the two, which will be challenging. Representative Dunshee remarked that we currently make modernization decisions on a Ouija board; it would be nice to at least have an objective board. Ms. Barrett also noted the information in the report about an effort in Massachusetts to capture modernization information. However, the comparable framework may not be the best vehicle for the modernization part of the discussion.

Mr. Roberts added that this report provides information that will be useful in other areas of the state capital budget.

Senator Kohl-Welles moved to approve for distribution the proposed final report for the Higher Education Capital Facilities Studies: Expanding the Comparable Framework. Motion was seconded and carried unanimously.

GENERAL CONTRACTOR/CONSTRUCTION MANAGER PROCEDURES STUDY — PROPOSED FINAL REPORT

Jill Satran and Isabel Muñoz-Colón with the JLARC staff briefed the Committee on the proposed final report of the General Contractor/Construction Manager (GC/CM) Contracting Procedures. The study reviews the use of GC/CM in major public works projects, including a look at Washington's experience with GC/CM, performance indicators and benchmarks to compare GC/CM with the more traditional Design-Bid-Build approach, and industry research on the GC/CM approach. The report also notes the

Legislature's creation in the 2005 Legislative Session of the Capital Projects Review Board and discusses how this JLARC study can feed into the work of this new board.

Representative Hunter asked a clarifying question about the availability of actual project cost data. Ms. Satran explained that the cost information exists; our state information systems either don't collect it or collect it in a form that is hard to analyze. Representative Anderson wondered if anyone else found this alarming. Representative Haigh noted the challenge of trying to collect project information over time, with people changing positions. Representative Anderson elaborated that the technology systems that accrue such data should allow anyone to start from the same transparent baseline to evaluate that information. Representative Jarrett emphasized that the *data* is there; the *information* is not there. Our accounting systems are designed to track appropriations and expenditures, not costs of delivery of end products. This does not let us hold people accountable for the final performance numbers on a project.

Representative Alexander asked why one would expect higher initial costs using GC/CM. Ms. Satran explained that "initial" is the key to the discussion. With GC/CM, there is more up-front effort for the manager, the architect, and the contractor. In theory, this should result in lower costs at the back end of a project, such as fewer change orders and less litigation.

Senator Thibodeau asked who was on the new Capital Projects Review Board. Representative Haigh indicated that she was a member and provided information on board representatives. She also noted that there are two board subcommittees, one on school districts and one on hospital districts.

Senator Kohl-Welles commented that, in the recommendations, additional alternative contracting approaches could be explored as well.

Representative Dunshee asked if there was national data on alternative contracting that would provide a clear answer on which approach was best to use. Ms. Satran explained that there are a couple of large studies. They were conducted at a time when there was not a lot of experience with GC/CM yet. It is possible to find some information, for example, on prisons, but there is not a large database that can give legislators a definitive answer. Ms. Satran and Muñoz-Colón added that, with this JLARC study, the state now has data on the projects that have been built in Washington, so we are beginning to build that database.

Senator Thibodeau asked about projects built by hospital districts, noting there were very few. Ms. Satran observed that the hospital districts have the most recent authorization to use GC/CM. Representative Haigh returned to the topic of subcommittees of the new review board dealing particularly with school districts and hospital districts. Ms. Satran added that school districts and hospital districts are unique in the state in that they have to have their GC/CM proposals approved by special boards set up specifically for that purpose.

Representative Jarrett asked Mike Roberts (OFM) about OFM's partial concurrence on a recommendation about collection of project performance data on state and local capital projects. Mr. Roberts indicated that, while OFM can tell state agencies to report, it has less authority to direct local agencies to do so.

Representative Jarrett followed up, asking if OFM had made an effort to review basic cost accounting structure and standards to find ways to answer these kinds of questions about capital projects. Mr. Roberts responded that this was one of the issues being worked on as part of OFM's response to JLARC's earlier audit of the capital budget process. Overcoming the biennial issue is proving to be a challenge. Representative Jarrett commented that an activity-based cost accounting system would give OFM a basis to answer many of these questions; the current system has serious defects in allowing us to manage to results, as opposed to just managing spending. Mr. Roberts agreed that the current accounting systems do not provide management information and that we need to get there.

Representative Dunshee clarified that a local project would be something like a Snohomish County jail. Mr. Roberts affirmed this, adding that the local sponsor would have to deal with the State Auditor on financial compliance, but not with OFM on management information. This information is expensive to find and collect.

Representative Anderson listed some of the various efforts underway to look at cost accounting issues and indicated that it would help to have a date-certain of when OFM and others will have recommendations back to JLARC on these information questions. Mr. Roberts replied that part of the answer will be included in the OFM work plan in response to JLARC's earlier capital budget review. They are trying to get all the pieces nailed down and integrated.

Representative Alexander encouraged the new review board to take a look at the Legislative Evaluation and Accountability Program Committee (LEAP) for possible approaches. LEAP has successfully constructed information systems that deal with both state and local transportation projects and that cross over the fiscal year boundary lines.

Senator Regala moved to approve for distribution the proposed final report for the General Contractor/Construction Manager Procedures Study. Motion was seconded and approved unanimously.

DNR GRAZING LANDS STUDY – PRELIMINARY REPORT

Deborah Frazier with the JLARC staff briefed the Committee on the preliminary report of the study of grazing lands managed by the Department of Natural Resources (DNR). The report includes an explanation of the responsibilities of the Legislature and DNR in the management of these state trust lands, a review from various perspectives of the revenues and expenditures associated with these lands, and a broader review of costs and benefits of the grazing lands using a benefit cost model developed for the study. To illustrate the benefit cost model, the report compares the status quo grazing program with three alternatives. The report recommends that DNR use the model generated by this study to examine grazing policy and management options as needed.

Representative Jarrett asked a clarifying question about “animal unit months” (AUM) in terms of comparability across jurisdictions (an “animal unit month” is a measure of the amount of forage one 1,000-pound cow and her calf will consume during one month of the grazing season).

Representative Dunshee returned to the part in the study about grazing fees on federal lands. Ms. Frazier reiterated that the fee for federal lands was capped at \$2.00/AUM but that the fee on federal lands had not hit that cap. Representative Dunshee also reviewed the expenditures from the Resource Management Cost Account used to manage the state grazing lands.

Representative Hunter remarked that the expenditures for the DNR FTEs seemed rather low. Ms. Frazier noted that the amounts listed in the study are the amounts generated from DNR's accounting system.

Representative Dunshee asked for clarification on who some of the “other” people the JLARC contractors interviewed during the study. Ms. Frazier responded with the example of real estate agents and county tax assessors as part of the contractors' efforts to estimate the current market value of the land.

Senator Kohl-Welles discussed an alternative considered in the benefit cost assessment to increase grazing fees on state trust lands by 50 percent, accompanied by the assumption of the number of ranchers who would drop out as a result of the fee operation. She asked if it would be possible to consider a lower fee increase, with fewer ranchers dropping out. Ms. Frazier reiterated that the purpose of identifying these particular alternatives was to illustrate the model and that it could be used to explore different options.

Representative Hunter asked if we know whether the value of the land itself is improving or decreasing over time. Ms. Frazier explained that this project did not attempt to conduct an actual condition assessment of the land, that being beyond the time and resources available for this study. She did note that an organization called the Washington Rangeland Committee is in the process of developing a proposal to do an assessment of the grazing lands in the state. Using graduate students, they estimate a cost of about \$60,000 and a duration of a couple of years. Also, the federal Natural Resources Conservation Service has test plots on grazing lands in every county.

Representative Holmquist moved to the land stewardship impacts of another alternative, that of stopping leasing of state lands for grazing. She asked if that stewardship role would then switch to DNR. Ms. Frazier responded yes, noting that currently

leaseholders do some of the land stewardship tasks. Another issue with the alternative is that of fencing. DNR would have to fence off state lands in order to keep cattle from “stealing” the state’s forage material.

Representative Dunshee asked about previous surveys of the condition of grazing land in Washington and returned to the point that the study does not quantify this. Ms. Frazier reaffirmed that the study does not do this. The Legislature has passed bills with the intent of improving the condition of these state lands, but we do not know if that has actually come to pass without doing an actual condition assessment.

Representative Alexander and Ms. Frazier had additional discussion about Washington’s grazing fees as compared to the grazing fees charged in different states. Ms. Frazier added that other states have the same trust responsibilities as Washington, though most took a different approach, selling off most of their trust lands.

Representative Dunshee indicated that he would like the Committee to consider conducting a peer review of the grazing lands study and that he would spell out his reasons for this in a letter to the Committee.

DNR FIRE SUPPRESSION POLICY STUDY — PROPOSED FINAL REPORT

John Woolley and Lisa Jeremiah of the JLARC staff briefed the Committee on the proposed final report of JLARC’s review of DNR’s fire suppression program. This study reviews DNR’s compliance with statute and also examines the factors that are contributing to recent increases in fire suppression costs. The report offers a set of recommendations to improve fire information and cost comparisons, to improve financial and budget information, and to improve specific information regarding DNR’s use of helicopters in fighting forest fires.

Senator Parlette noted that DNR had partially concurred on some of the recommendations and asked why that was the case. Mr. Woolley responded that there was just a need for some clarification on exactly what the recommendations are requesting. Senator Parlette observed that there was not much left available to burn in Chelan County and asked who an appropriate contact person would be at DNR to get additional information. Pat McElroy, Director of Regulatory Programs at DNR, was in the audience and volunteered to be the contact person.

Senator Regala moved to approve for distribution the proposed final report for the DNR Fire Suppression Policy Study. Motion was seconded and carried unanimously.

HVAC/R LICENSING AND TESTING REQUIREMENTS STUDY — PRELIMINARY REPORT

Eric Thomas briefed the Committee on the preliminary report of JLARC’s review of HVAC/R testing and licensing. HVAC/R stands for Heating, Ventilation, Air Conditioning, and Refrigeration. The report explains what HVAC/R work entails, then goes on to examine current licensing, certification, and testing requirements, also comparing these with other trades in Washington and with HVAC/R requirements in other states. The study identifies three issues related to these requirements and provides three recommendations to address these issues; the report also makes note of the current composition of Washington’s Electrical Board and leaves an option to the Legislature to revisit the board’s current composition.

Representative Holmquist reported the situation of a small HVAC/R business in her district that suddenly found itself regulated by the Department of Labor and Industries (L&I). She expressed an interest in following up with Mr. Thomas to talk more about this. Numerous businesses were affected by this change, and L&I may have pulled in more businesses than they intended to.

Senator Kohl-Welles discussed the study’s surveying of HVAC/R contractors on their perceptions regarding their current testing and regulation, with 44 percent reporting that the testing and regulation is not representative of the work that they do. Her concern was that the three options for the survey response might not be mutually exclusive. Mr. Thomas agreed that they might not be; in speaking to the respondents, he tried hard to ferret out their actual perspectives.

Moving away from presentations and reports, Representative Jarrett commented on how many of our reports are illustrating the systemic failure of the state’s accounting systems to provide useful management/decision-making information. He indicated we

need to find a way to tie together these multiple reports in order to inform the Legislature, OFM, and the Governor. Perhaps staff could give some thought as to how to accomplish this. Other members supported this idea.

Representative Alexander suggested sending notes from the Committee to Senators Fairley and Oke, sending the Committee's best wishes to their colleagues for a quick recovery.

Senator Kohl-Welles requested that meeting minutes be sent to Committee members via email in addition to regular mail.

ATTENDANCE

JLARC Members Present: Senators Jeanne Kohl-Welles, Linda Evans Parlette, Debbie Regala, Phil Rockefeller, and Pat Thibaudeau; Representatives Gary Alexander, Glenn Anderson, Kathy Haigh, Janéa Holmquist, Ross Hunter, and Fred Jarrett.

Other Legislators Present: Representative Hans Dunshee.

JLARC Staff Present: Ann Daley, Interim Legislative Auditor; staff members Karen Barrett, Linda Byers, Melania Elias, Cynthia Forland, Deborah Frazier, Lisa Jeremiah, Suzanne Kelly, Isabel Muñoz-Colón, Curt Rogers, Jill Satran, Eric Thomas, and John Woolley.

ADJOURNMENT

The meeting was adjourned at 12:25 p.m.

CHAIR

SECRETARY